

LEIGHA SIMONTON
UNITED STATES ATTORNEY
Dawn Whalen Theiss
Assistant United States Attorney
Texas Bar No. 24051755
1100 Commerce St., Ste. 300
Dallas, Texas 75242
dawn.theiss@usdoj.gov
Telephone: 214-659-8600
Facsimile: 214-659-8807
Attorneys for
United States of America
Internal Revenue Service

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:

HOUSE OF DEAR HAIR SALON, LLC,
Debtor.

CASE NO. 24-30068-SGJ-11
CHAPTER 11

OBJECTION TO CONFIRMATION OF AMENDED CHAPTER 11 PLAN

The United States of America, on behalf of the Internal Revenue Service (IRS), objects to confirmation of the Debtor's First Amended Plan of Reorganization Under Subchapter V of Chapter 11, filed by Debtor Hispanic Family Christian Network, Inc. (the Plan) (Doc. 57), pursuant to 11 U.S.C. § 1129, and Federal Rule of Bankruptcy Procedure 3020.

IRS PROOF OF CLAIM AND DELINQUENT RETURNS

The IRS has filed a proof of claim (Claim 6-1). The claim in the Hair Salon case is an unsecured priority claim in the amount of \$1,215.04. *Id.* This claim includes estimates for several periods because the Debtor has failed to file certain returns when due. These include, Form 941 returns for all four quarters of 2021 and the first quarter of 2024 (Employers Quarterly

Federal Tax Return), and Form 940 return for the 2021 tax year (Employers Annual Federal Unemployment – FUTA). The IRS Claim in the House of Dear case is an unsecured priority claim of \$5,000. (Claim 4-1). This claim includes estimates for several periods because the Debtor has failed to file certain returns when due. These include Form 941 returns 2020-2023 (Employers Quarterly Federal Tax Return), and Form 940 return for the 2020-2023 tax years (Employers Annual Federal Unemployment – FUTA). Because the Debtor has not filed the tax returns for these periods, the IRS estimated the claims for each applicable year or period.

**THE PLAN IS GENERALLY UNCONFIRMABLE BASED ON THE
DEBTOR’S FAILURE TO FILE TAX RETURNS**

Unless and until the delinquent tax returns are filed, the Plan can not be confirmed.

11 U.S.C. § 1106(a)(6) (“A trustee shall . . . for any year for which the debtor has not filed a tax return required by law, furnish, without personal liability, such information as may be required by the governmental unit with which such tax return was to be filed . . .”); *id.* § 1184 (requiring small business debtors under Subchapter V to comply with the requirements of section 1106(a)(6) of the Bankruptcy Code); *id.* § 1129(a)(2) (chapter 11 plan cannot be confirmed unless “[t]he proponent complies with the applicable provisions of this title.”); *id.* § 1191(a) (applying Bankruptcy Code section 1129(a)(2)’s confirmation requirement to cases under Subchapter V). To be clear, before the amount of the IRS’s claim can even be determined with certainty (or the feasibility of the Plan even assessed), the Debtor must file the delinquent federal returns. The Service reserves the right to oppose confirmation on additional grounds (including feasibility) once the returns are provided.

THE PLAN VIOLATES 11 U.S.C. § 1129(a)(11)

The United States objects that confirmation of this Plan is likely to be followed by liquidation or a need for further financial reorganization in violation of 11 U.S.C. § 1129(a)(11). Until the Debtor has filed the tax returns referenced above, the priority and unsecured claims cannot be ascertained. Therefore, the Debtor cannot show the Plan is feasible without establishing the amount of the priority and unsecured claims held by the IRS.

CONCLUSION

For the reasons stated, the Amended Plan does not comply with the requirements of the Bankruptcy Code. The United States respectfully requests that this Court deny confirmation of the Plan, and grant to the United States such relief to which it may be entitled.

DATED August 12, 2024

Respectfully submitted,

LEIGHA SIMONTON
UNITED STATES ATTORNEY

/s/ Dawn Whalen Theiss
Dawn Whalen Theiss
Assistant United States Attorney
Texas Bar No. 24051755
1100 Commerce Street, Third Floor
Dallas, Texas 75242-1699
Telephone: 214-659-8628
Facsimile: 214-659-8807
dawn.theiss@usdoj.gov

Attorneys for Internal Revenue Service

Certificate of Service

On August 12, 2024, I electronically submitted the foregoing document with the clerk of court for the U.S. Bankruptcy Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Dawn Whalen Theiss
Dawn Whalen Theiss
Assistant United States Attorney